IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1131/06
(Jatan Chandra Gaur & Anr. Vs. State of Rajasthan)

Date of Order : 15/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Mahesh Bora for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks quashing of endorsement made by Additional Sessions Judge No.2 Chittorgarh on the title deeds of the petitioners.

I have heard learned counsel for the petitioners and public prosecutor for the State. Perused the record.

The facts and circumstances giving rise to the instant petition are that Devendra Kumar Gaur, who is the petitioner in S.B.Criminal Revision Petition No.309/03, was convicted by the judgment and order dated 13.9.2000 passed by Chief Judicial Magistrate, Chittorgarh. His conviction and sentence was

maintained in appeal by judgment and order dated 1.4.2003 passed by Additional Sessions Judge No.2, Chittorgarh. Against which, the accused Devendra Kumar filed a revision petition being S.B.Criminal Revision Petition No.309/03 before this Court. By order dated 16.4.2003, this Court allowed the application seeking suspension of sentence and ordered that the sentence awarded to petitioner therein Devendra Kumar Gaur shall remain suspended provided he executes personal bond in the sum of Rs. 20,000/- along with two sureties in the sum of Rs. 10,000/- each to the satisfaction of the trial court. The present petitioners stood sureties for accused Devendra Kumar Gaur and filed the surety bonds. The trial court in order to ascertain the solvency of the present petitioners required them to file documents, for which the petitioner No.1 Jatan Chandra Gaur filed title of Plot No.47 measuring 266.66 Sq.yards. alloted to him by Shyampuri Grah Nirman Sahakari Ltd., Jaipur and the petitioner No.2 Archna Gaur filed a sale deed executed in her favour for the land bearing Khasra No.373 measuring 0.20 Hectare situated in Village Jhai, Tehsil Sanganer, district Jaipur. The trial court accepted the surety bonds, however on the original documents of the title deeds, the trial court made endorsement that these documents are subject matter of surety and affixed the seal of the Court and signed.

Learned counsel for the petitioners submits that the

petitioners are otherwise solvent and they stood surety for Rs. 10,000/- each and by such endorsement of the trial court on the title deeds of the petitioners, the petitioners are deprived of either to take loan on their lands for the construction of house or to alienate the same and therefore, such endorsement of the trial court is unreasonable.

Having regard to the facts and circumstances of the case, in my view, the trial court exceeded its jurisdiction in making such endorsement on the title deeds of the petitioners. The title deeds were only required to satisfy that the person is solvent or not who stood as surety for the accused. For a sum of Rs. 10,000/- each, there was hardly any need even for asking for the title deeds. In the circumstances, therefore, the petition deserves to be allowed.

In the result, the criminal misc. petition is allowed. The endorsements made by the Additional Sessions Judge No.2, Chittorgarh on the title deeds of the petitioners referred herein above, shall stand deleted and it is made clear that such endorsements will have no effect and will not create any restriction on the title deeds of the petitioners.

(H.R.PANWAR),J.

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